

Notice of Allowability

Application No.

10/516,320

Examiner

Rei-tsang Shiao, Ph.D.

Applicant(s)

NAKADA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on August 23, 2007.
2. ☒ The allowed claim(s) is/are 1, 4 and 7-12, now are 1-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This application claims benefit of the foreign application:
JAPAN 2002-173483 with a filing date 06/14/2002.
2. Amendment of claims 1, 4 and 7-8, cancellation of claims 2-3 and 5-6, and addition of claims 9-12 in the amendment filed on August 23, 2007 is acknowledged. Claims 1, 4 and 7-12 are pending in the application. No new matter is found. Since the newly added claims 9-12 are commensurate with the scope of the invention, claims 1, 4 and 7-12 are prosecuted in the case.

Responses to Amendment/Arguments

3. The rejection of claims 1, 4 and 7-8 under 35 U.S.C. first or second paragraph has been overcome in the amendment filed on August 23, 2007. Since claims 2-3 and 5-6 have been cancelled, the rejection of claims 2-3 and 5-6 under 35 U.S.C. first or second paragraph has been obviated herein.
4. Since the instant variable R^2 does not represent a hydroxyl group, the rejection of claims 1, 4 and 7-8 under 35 U.S.C. 103(a) over Mealy et al. has been overcome in the amendment filed on August 23, 2007. Since claims 2-3 and 5-6 have been cancelled, the rejection of claims 2-3 and 5-6 under 35 U.S.C. 103 (a) has been obviated herein.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be

filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Vincent K. Shier on October 16, 2007. The application has been amended as follows:

In claim 8, lines 1-3, after "A method", delete "as claimed in claim 4 further comprising administering the medicament to a patient in order to function treat Alzheimer's disease", and insert
--of treating Alzheimer's disease comprising administering the pharmaceutical composition of claim 1 to a patient in need thereof--

In claim 9, line 2, after "ethoxy", delete "]", and insert
--)--

In claim 10, line 2, after "ethoxy", delete "]", and insert
--)--

In claim 11, line 2, after "ethoxy", delete "]", and insert
--)--

In claim 12, line 2, after "ethoxy", delete "]", and insert
--)--

Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

Claims 1, 4 and 7-12 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. This invention relates to medicinal compositions improving brain function and method for improving brain function. The closest reference is Yu et al. US 5,177,082, which discloses huperzines and analogs. The difference between Yu et al. and instant claims is that the instant compounds/composition of claim 1 are not found in Yu et al. A suggestion for modification of above reference to obtain the instant claimed compounds/composition and methods of use has not been found. Claims 1, 4 and 7-12 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rei-tsang Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

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the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Rei-tsang Shiao', with a stylized flourish at the end.

Rei-tsang Shiao, Ph.D.
Patent Examiner
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October 23, 2007